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The present volume is a distinct addition to the English books treating of the Roman law, and coming as it does from an acknowledged authority, it must be well received by all students of the civil law and especially by those who care to know its history and its bearing on the present law of Germany.

H. F.

THE CONSTITUTIONAL HISTORY OF THE UNITED STATES, 1765-1795. By Francis Newton Thorpe. Chicago: Callaghan & Co. 1901. 3 vols. pp. xxi, 595; xix, 685; xvi, 718.

The distinction between the constitutional and the political history of the United States is necessarily vague. Political issues have constantly turned on the construction of a written constitution, and as the interpretation has affected politics, politics has inevitably affected the interpretation. The constitutional historian, therefore, will find difficulty in limiting his subject. The present author, however, seems to have gone too far, and excluded much that would have conduced to clearness, even if not strictly within his field. But he has also imposed upon himself another and a more serious limitation. He conceives American constitutional history as the history of the Constitution in its strict sense, that body of fundamental law which cannot be changed by an ordinary act of the legislature. If this is correct, then another title must be found for works which deal with the growth of what might be called the American Constitution in its larger sense, namely, all those customs, laws, and institutions which determine how the powers of the state shall be exercised. Such a work would consider, for instance, not only the constitutional provisions as to presidential electors, but also the laws by which they are elected by the people of the states and the custom by which they have lost all freedom of action. To such a work, we think, the term constitutional history is more properly applied.

An historical work in the narrower field, written from a purely legal point of view, might well be useful, but such is not the one before us. The writer, exaggerating the influence of abstract ideas, tends to present our constitutional development chiefly as a result of those ideas and general principles which have hitherto characterized our political thought. These, however, are exemplified as much by our extra-constitutional institutions as by the Constitution itself, and the work would naturally be expected to consider both.

Accepting the book as a history of the American Constitution, in the light of American political philosophy, it appears the result of painstaking research, but the mass of material, consisting largely of state papers and speeches, arranged in chronological order, is often very confusing. The opening chapters contain many general statements, some too broad, others suggestive indeed, but not worked out in the sequel. The account of the formation and adoption of the Constitution and the early amendments is very complete. The votes in the Constitutional Convention are carefully recorded, the debates there and in the ratifying conventions fully summarized, and the sources of each provision noted. The same method is pursued with all the amendments. The period between about 1800 and 1861 occupies only half a volume. Two separate chapters are given to the principal decisions of the Supreme Court before and after the Civil War. The work has full references and is well indexed but contains no appendix of documents.

H. L. B.